

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION**

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* BRIAN S. PETRUCCI

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Appeal No. 95-3109  
Application 08/043,113<sup>1</sup>

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ON BRIEF

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Before LYDDANE, STAAB and NASE, *Administrative Patent Judges*.  
STAAB, *Administrative Patent Judge*.

**DECISION ON APPEAL**

Brian S. Petrucci (appellant) appeals from the final rejection of claims 18-20 and from the examiner's refusal to allow claims 1-7 and 11-17 as amended by an amendment filed subsequent to the final rejection. These constitute all the claims remaining in the application. We reverse.

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<sup>1</sup>Application for patent filed April 5, 1993.

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Appellant's invention pertains to a grille assembly in combination with a vehicle body and a loudspeaker (claims 1-7), a grille assembly for mounting a loudspeaker to a vehicle body (claims 11-17), and a method of mounting a loudspeaker in a vehicle body (claims 18-20). Independent claim 1 is illustrative of the appealed subject matter and reads as follows:

1. In combination with a vehicle body defining in part a passenger compartment and supporting a loudspeaker, a grille assembly for directing sound from the loudspeaker into the passenger compartment, the grille assembly comprising:

a support member on the vehicle body overlying the loudspeaker and having an opening therein aligned with the loudspeaker so that sound from the loudspeaker is directed through the opening;

a discrete acoustically transparent grille extending across the opening in the support member; and

a trim cloth covering the grille to conceal its finish and at least a portion of the support member so that the grille cannot be seen from within the passenger compartment;

wherein sound from the loudspeaker passes through the opening in the support member and the grille as it is directed to the passenger compartment.

The examiner relies upon the following references as evidence of obviousness in support of the rejections:

Yanagishima et al. (Yanagishima)	4,514,599	Apr. 30, 1985
Skrzycki	4,853,966	Aug. 1, 1989
Smith	4,974,698	Dec. 4, 1990

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The following rejections under 35 U.S.C. § 103 are before us for review:<sup>2</sup>

(a) claims 1-4, 6, 11-15, 18 and 19, unpatentable over Yanagishima;

(b) claims 5 and 17, unpatentable over Yanagishima in view of Smith; and

(c) claims 7, 16 and 20, unpatentable over Yanagishima in view of Skrzycki.

Each of the independent claims 1 and 11 calls for a support member having an opening for receiving sound directed from a loudspeaker, a discrete acoustically transparent grille assembly extending across the opening, and a trim cloth covering the grille to conceal its finish and at least a portion of the support member to hide the grille assembly from view from within a vehicle passenger compartment. Independent claim 18 sets forth similar subject matter in method format.

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<sup>2</sup>In the final rejection, claims 1-7 and 11-17 were also rejected under 35 U.S.C. § 112, second paragraph. Since these claims have been amended subsequent to final rejection in such a manner so as to apparently overcome the examiner's criticism of these claims, and since no mention of this rejection has been made by the examiner in the answer, we presume that the examiner has withdrawn the final rejection of claims 1-7 and 11-17 on this ground. *Ex parte Emm*, 118 USPQ 180, 181 (Bd. App. 1957).

Yanagishima, the examiner's primary reference, "relates to a speaker using a vehicle panel as a replacement for the speaker cone of a cone-type speaker" (column 1, lines 13-15). As explained at column 3, lines 24-29,

[t]he panel speaker 50 generally utilizes a vehicle panel 52, which comprises part of a vehicle body, as as [sic, as an] oscillation member instead of a speaker cone. The vehicle panel 52 is oscillated by a driver 54 which is attached to the vehicle panel 52 and drives the latter to produce audio sound vibrations.

In Figures 14-30, Yanagishima discloses several embodiments for providing the rear parcel shelf of a vehicle with both a panel speaker and a cone-type loudspeaker. The linchpin of the standing § 103 rejections is the examiner's position that it would have been obvious to one of ordinary skill in the art to modify the Figures 17-18 embodiment of Yanagishima in view of the Figures 19-21 embodiment thereof in a manner that would result in the subject matter of independent claims on appeal. The examiner explains the rejection on pages 4 and 5 of the answer as follows:

In Yanagishima et al., Fig. 18, the rear parcel shelf inner panel 103 which constitutes a part of the vehicle body is readable as a so-called "vehicle body member." See column 7, lines 66-68. Further, the rear parcel shelf 100 . . . formed with through openings 120 is readable as a so-called "support member having an opening therein[.]"

Yanagishima et al., Fig. 21, discloses another embodiment of a mounting assembly for mounting a loudspeaker in a vehicle wherein the speaker cover or

"grille" and the rear parcel shelf or "support member" are covered by a decorative carpet (column 9, lines 11-17) "cloth" for providing a pleasant appearance to the interior of the vehicle compartment or in another word, preventing the "grille" and "support member" from being exposed within the vehicle compartment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the embodiment of Fig. 18 of Yanagishima et al. with a decorative carpet or "cloth" for covering the "grille" and "support member" as taught by Yanagishima et al. in the embodiment of Fig. 21 for the purpose of providing a pleasant appearance to the interior of the vehicle compartment or in another word, preventing the "grille" and "support member" from being exposed with the vehicle compartment.

Like the examiner, we find the Figures 17-18 embodiment of Yanagishima to disclose a vehicle body 103 defining in part a passenger compartment and supporting a loudspeaker 114, a support member 100 on the vehicle body overlying the loudspeaker and having an opening 120 therein aligned with the loudspeaker, and a discrete acoustically transparent grille 121-122 extending across the opening in the support member. Accordingly, we are in accord with the examiner that the Figures 17-18 embodiment corresponds to the subject matter of independent claim 1, for example, except for a trim cloth covering the grille to conceal its finish and at least a portion of the support member. We also appreciate that in the Figures 19-21 embodiment of Yanagishima, element 124 constitutes a grille member covered with a decorative lining 126

such as carpet or the like (column 9, lines 11-17).

Nevertheless, we cannot support the examiner's conclusion of obviousness based on these teachings.

At column 7, lines 61-66, Yanagishima states that

Figs. 14 to 30 show variations of speaker arrangements provided in a rear panel shelf of the automotive vehicle. As shown in Fig. 14, the rear parcel shelf 100 comprises a core 101 such as hardboard, a plastic plate, a metal sheet or the like, and a lining 102, *such as carpet and the like.*" [emphasis added]

A review of Figure 14 further reveals that the lining in question (element 102) is the outermost surface of the rear panel, i.e., the surface exposed to the passenger compartment. At column 8, lines 55-56, Yanagishima states with respect to the Figures 17-18 embodiment that "[t]he rear parcel shelf 100 is formed with through openings 120." Based on these disclosures, and the above noted disclosure at column 9, lines 11-17 of Yanagishima to the effect that carpet may be utilized to provide a decorative lining, it is our finding that (1) shelf 100 of Yanagishima's Figure 17-18 embodiment is a rear panel shelf of the type described at column 7, lines 61-66 and that, as such, it includes a lining 102 on the surface thereof that is exposed to the passenger compartment, and that (2) said lining does not cover the grilles 121-122. This finding is consistent with both

Yanagishima's disclosure as a whole and the circumstance that it is conventional to provide the interior surfaces of the passenger compartment of an automobile with textures, fabrics, trim, etc. to enhance the interior's appearance.

When considered in this light, we believe the ordinarily skilled artisan would view the Figures 17-18 and Figures 19-21 embodiments of Yanagishima as two separate and distinct speaker mounting arrangements with respect to the appearance they present to passengers.<sup>3</sup> That is, rather than cover the rear panel and grilles of Yanagishima's Figures 17-18 embodiment with lining material in an effort to provide an uninterrupted decorative look, we think one of ordinary skill in the art would simply employ the Figures 19-21 embodiment of Yanagishima. In short, it is our view that one of ordinary skill in the art would select *either* the Figures 17-18 *or* the Figures 19-21 embodiment of Yanagishima depending on the finished appearance desired, rather than combine them in the manner proposed by the examiner.

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<sup>3</sup>As aptly pointed out by appellant on page 9 of the amended appeal brief, the Figures 17-18 and Figures 19-21 embodiments of Yanagishima closely correspond to the two prior art speaker arrangements described in the background section of appellant's specification (pages 1-2) upon which the present invention seeks to improve.

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Where the teachings of the prior art require a selective combination of features in order to render obvious a claimed invention, there must be some reason for the combination other than hindsight gleaned from the invention disclosure, *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985). In the fact situation before us, we are unable to agree with the examiner that one of ordinary skill in the art would have arrived at the claimed subject matter based on the teachings of Yanagishima.

In light of the foregoing, we cannot support the examiner's rejection of claims 1-4, 6, 11-15, 18 and 19 as being unpatentable over Yanagishima.

We have also carefully reviewed the Smith reference additionally relied upon by the examiner in rejecting claims 5 and 17, and Skrzycki reference additionally relied upon by the examiner in rejecting claims 7, 16 and 20, but find nothing therein that makes up for the deficiencies of Yanagishima discussed above. Therefore, we also cannot support the examiner's rejections of these dependent claims.

The decision of the examiner is reversed.



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**REVERSED**

WILLIAM E. LYDDANE	)	
Administrative Patent Judge)	)	
	)	
	)	
LAWRENCE J. STAAB	)	BOARD OF PATENT
Administrative Patent Judge)	)	APPEALS AND
	)	INTERFERENCES
	)	
JEFFREY V. NASE	)	
Administrative Patent Judge)	)	

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